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U.S. DISTRICT COURT
DISTRICT OF UTAH

SNELL & WILMER L.L.P.
Alan L. Sullivan (3152)
Todd M. Shaughnessy (6651)
15 West South Temple, Suite 1200
Gateway Tower West
Salt Lake City, Utah 84101-1004
Telephone: (801) 257-1900
Facsimile: (801) 257-1800

CRAVATH, SWAINE & MOORE LLP
Evan R. Chesler (admitted pro hac vice)
David R. Marriott (7572)
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019
Telephone: (212) 474-1000

*Attorneys for Defendant/Counterclaim-Plaintiff
International Business Machines Corporation*

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

THE SCO GROUP, INC.,

Plaintiff/Counterclaim
Defendant,

vs.

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Defendant/Counterclaim
Plaintiff.

**DEFENDANT/COUNTERCLAIM
PLAINTIFF IBM'S
SECOND MOTION TO COMPEL
DISCOVERY AND CERTIFICATE OF
COMPLIANCE WITH RULE 37(a)(2)(A)
OF THE FEDERAL RULES OF CIVIL
PROCEDURE**

(ORAL ARGUMENT REQUESTED)

Civil No. 2:03cv0294

Honorable Dale A. Kimball

Magistrate Judge Brooke Wells

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Pursuant to Rule 37 of the Federal Rules of Civil Procedure, Defendant/Counterclaim Plaintiff International Business Machines Corporation (“IBM”), through counsel, hereby moves this Court for an Order compelling Plaintiff and Counterclaim-Defendant The SCO Group (“SCO”) to (i) respond fully to IBM’s second set of interrogatories, and (ii) to produce categories of documents that SCO has agreed to produce but have not been forthcoming.

As set forth in detail in the memorandum accompanying this motion, SCO’s response to IBM’s second interrogatories is inadequate and incomplete. These interrogatories ask SCO to identify all of the material in Linux to which SCO claims any rights (Interrogatory No. 12), and, with respect to the material identified, whether SCO contends that IBM infringed SCO’s rights and how (Interrogatory No. 13). SCO responds to these interrogatories by (i) raising various groundless objections, and (ii) incorporating by reference its answers to Interrogatory nos. 1, 2 through 4 (which are the subject of IBM’s pending motion to compel). SCO has not provided a meaningful response to these interrogatories and should be compelled to do so. In addition, SCO has failed to produce to IBM important categories of documents that it could have produced months ago.

CERTIFICATION OF COMPLIANCE WITH RULE 37(a)(2)(A)

Counsel for IBM has made good faith efforts to obtain complete discovery responses without Court action, but has been unable to do so. As detailed in IBM’s first motion to compel, the parties have exchanged numerous letters and e-mails, and have participated in several phone conferences to resolve various discovery disputes (See IBM’s First Motion to Compel and Certificate of Compliance with Rule 37(a)(2)(A)). Counsel for the parties did not specifically discuss Interrogatory nos. 12 and 13 because, at that time, SCO had not yet answered these

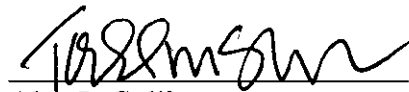
interrogatories. However, the parties discussed at length the deficiencies in SCO's answers to Interrogatory nos. 1 through 9, the very same of deficiencies present in SCO's answers to Interrogatory 12 and 13. Indeed, in responding to IBM's Second Set of Interrogatories, SCO merely incorporates by reference its answers to Interrogatory nos. 1, 2 and 4, which are the subject of IBM's first motion, and the subject of extensive discussion by the parties. With respect to the production of documents, counsel for IBM has requested on several occasions that SCO promptly produce all responsive documents that are ready for production. Although counsel for SCO has agreed to do so, such documents have not been provided, as detailed in IBM's accompanying memorandum.

REQUEST FOR ORAL ARGUMENT

IBM also requests oral argument on this motion pursuant to DUCivR 7-1(f), and that it be heard on December 5, 2003, the date currently set for hearing on IBM's pending motion to compel.

DATED this 6th day of November, 2003.

SNELL & WILMER LLP



Alan L. Sullivan
Todd M. Shaughnessy

CRAVATH, SWAINE & MOORE LLP

Evan R. Chesler

David R. Marriott

*Attorneys for Defendant International Business
Machines Corporation*

Of counsel:

INTERNATIONAL BUSINESS MACHINES CORPORATION

Donald J. Rosenberg

Alec S. Berman

1133 Westchester Avenue

White Plains, New York 10604

(914) 642-3000

Attorneys for Defendant/Counterclaim Plaintiff International Business Machines Corporation

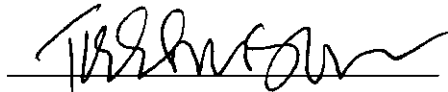
CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of November, 2003, a true and correct copy of the foregoing was hand delivered to the following:

Brent O. Hatch
Mark F. James
HATCH, JAMES & DODGE, P.C.
10 West Broadway, Suite 400
Salt Lake City, Utah 84101

and was sent by U.S. Mail, postage prepaid, to the following:

Stephen N. Zack
Mark J. Heise
BOIES, SCHILLER & FLEXNER LLP
100 Southeast Second Street, Suite 2800
Miami, Florida 33131

A handwritten signature in black ink, appearing to read "Brent O. Hatch", is written over a horizontal line.